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*STATE OF MARYLAND*  
**BOARD OF PUBLIC WORKS**  
*GOVERNOR'S RECEPTION ROOM, SECOND FLOOR, STATE HOUSE*  
*ANNAPOLIS, MARYLAND*

**June 19, 2019**  
**10:07 a.m.**

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# PRESENT

**HONORABLE LARRY HOGAN**

Governor

**HONORABLE NANCY KOPP**

Treasurer

**HONORABLE PETER FRANCHOT**

Comptroller

**SHEILA C. MCDONALD**

Secretary, Board of Public Works

**NELSON REICHART**

Deputy Secretary, Department of General Services

**DAVID BRINKLEY**

Secretary, Department of Budget and Management

**PETE RAHN**

Secretary, Department of Transportation

**JEANNIE HADDAWAY-RICCIO**

Secretary, Department of Natural Resources

**MICHAEL LEAHY**

Secretary, Department of Information Technology

**JIMMY RHEE**

Special Secretary

Office of Small, Minority and Women Business Affairs

**MISSY HODGES**

Recording Secretary, Board of Public Works

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# PROCEEDINGS

GOVERNOR HOGAN: Good morning.

ALL: Good morning.

GOVERNOR HOGAN: Welcome to the Board of Public Works.

Today our nation recognizes Juneteenth to commemorate the end of slavery in the United States, which was achieved through the courage and sacrifice of a lot of men and women like Frederick Douglass and Harriet Tubman right here in Maryland. And as you know, I've been pushing the U.S. Treasury Secretary and the administration to reconsider their reversal of the decision and the delay of the release of the Harriet Tubman \$20 bill by nearly a decade. Harriet Tubman is a Maryland and an American hero who has more than earned this tribute.

I also just want to take a moment to remember the 104th Speaker of the Maryland House of Delegates. He was a good friend of mine, Speaker Clay Mitchell, who passed away last week. You may have noticed the flags lowered at the State House and in all of our State buildings, which we did in his honor. And I'll be speaking at his memorial service on Friday. I just would say that Speaker Mitchell was a man for whom I had a tremendous amount of respect and admiration. I would say he dedicated his life to serving others and he will always be remembered as an icon and someone who contributed greatly to the State. He certainly was somebody that represented the Eastern Shore and the rest

of the State. And I want to extend my heartfelt prayers and my deepest sympathies to the Mitchell family and to everyone who loved him.

With that, I will turn the floor over to my colleagues for any opening remarks. Madam Treasurer?

TREASURER KOPP: Thank you. I was also going to note the passing of Clay Mitchell, with whom the Comptroller and I worked for a number of years on Appropriations Committee. When I first came in 1974, Clay was my subcommittee chair and we worked closely together. I became his vice chair when he became chairman. I was the chairman of the subcommittee when he became Speaker. When he was Speaker, I was Speaker Pro Tem with Clay. We didn't always agree on things and at one point with the support of the Comptroller, Delegate Franchot, and others, I did run against Clay for Speaker of the House. I didn't win. But after tempers went down, within two weeks Clay was reaching out. We had lunch. We went over what our differences were. He asked me if I would chair the Spending Affordability Committee. And really went out of his way in an unusual, to an unusual extent, particularly in those days, for somebody to reach out to someone who had run against him, who had been his friend and seemed to, for a while, have severe disagreements. But recognized that we all were dedicated to public service and to representing our constituents as we thought best, dedicated to what was very good in those days, and I believe still is, compromise and working together. And to me, that was the epitome of Clay as a

person dedicated to public service, standing his ground, and then reaching out. And that model is one that we should all recall.

I just went down to the House Chamber before I came up here. You know, Clay is up there on the wall looking just as he did then and just as he does in our minds and in our memories and in our hearts. And I really thank you for your support. And the Comptroller has been very supportive of Clay in the last several years, as well as before. But I think it's very interesting that it was, it represented a time when we could all work together well.

GOVERNOR HOGAN: Yes, well thank you. I think he was a good role model. I mean, the point you just made, even though he was very passionate and you guys I'm sure clashed and disagreed, he really did set an example on how to find a way to bring people together, even if they didn't always agree. And that's what I liked about him and, you know, that's a role model to follow.

COMPTROLLER FRANCHOT: Well, I really appreciate the comments, Governor, and I think they are entirely appropriate. Madam Treasurer, absolutely I'm delighted to hear that he reached out to you. Because I don't remember him reaching out to me --

(Laughter.)

COMPTROLLER FRANCHOT: -- but that's okay. All is forgiven. And I have a wonderful photo of him swearing me in. I'm with my

family back in 1987 when I started in the Legislature, with Delegate Dembrow who is sitting before me, and famously -- I think I've recounted this before. But I remember after Nancy's failed insurgency, the Speaker's lieutenants were meeting with us and reading out a long list of punishments for our, whatever it was, heresy I guess. And I put my hand up and said, "That isn't fair." And the response back was, "Well, when you have the votes get back to us."

(Laughter.)

COMPTROLLER FRANCHOT: Yeah. Yeah. It was a delight, actually, to --

TREASURER KOPP: We had them for a little while --

COMPTROLLER FRANCHOT: Yes.

(Laughter.)

COMPTROLLER FRANCHOT: It was a short but brilliant career we had back in the day. And Madam Chair, I mean, Madam --

GOVERNOR HOGAN: Treasurer.

COMPTROLLER FRANCHOT: -- Chair of the Pension Committee, but Treasurer, thank you for everything you represented in the Legislature. I always hold you up as an example of people who are in politics for the right reason. And you personally are an embodiment of that. I will happen to say that I did reach out to Clay many times as Comptroller and he's been an absolute champion over on the Shore for the values of the Eastern Shore. As the



Governor and the Treasurer said, he was a consummate gentleman. I'll miss him dearly. I counted on him on my many trips over to the Eastern Shore. I'm comforted, frankly, that he's now with Teel, his beloved wife. And I salute his family and, you know, just want to say hats off to Speaker Mitchell and anything I can do to promote his legacy. The Governor very nicely named a bridge after him. Yep. That was a terrific event. And thank you for doing that.

TREASURER KOPP: And a very good symbol, too.

COMPTROLLER FRANCHOT: And a very good symbol.

GOVERNOR HOGAN: You know, everybody remembers William Donald Schaefer and his Reach the Beach Program. But Speaker Mitchell also had a lot to do with that, and widening some of those bridges, and raising them up so you wouldn't have to stop for the drawbridges every time on the way to the Shore, and a lot of those bridges in Cambridge and Vienna and the one that we last year named in his honor in the Kent Narrows. So we're happy to be able to get the chance to honor him before he passed.

COMPTROLLER FRANCHOT: Yes. Absolutely. And thank you for lowering the flags for him.

I also on Monday of this week spoke at the Maryland State Firemen's Association Convention in Ocean City. I recently visited with the Seat Pleasant Volunteer Fire Department and Dundalk Fire Station, which was all volunteers. Calling the volunteer men and women who serve in the fire service

unsung heroes doesn't even begin to capture the role that 70 percent of our firefighters in Maryland are volunteers. They are not career firefighters. They have other jobs. They get woken up in the middle of the night and go out in freezing weather to fight fires to protect their communities. It's an astonishing civic philanthropy I call it, I guess. And it's perfectly representative of the values of volunteer firemen and firewomen all across the State. They happen to be heavily involved in little league, in coaching soccer, and coaching football, and leaders in their church. They give back 100 times over to the community. And once again, I emphasize, they don't get paid. And families, generations of families serve in the volunteer stations, sons and grandsons, and daughters and granddaughters. So they don't, obviously don't do it for money. They do it out of a sense of professionalism, since they are highly trained, and most of all a love for their community. And their sincerity comes through. I was presented with a real helmet of a fire, one of the volunteers at the --

TREASURER KOPP: Did it fit you?

COMPTROLLER FRANCHOT: Yes, it didn't really. I have kind of a swelled head, I think. But --

(Laughter.)

COMPTROLLER FRANCHOT: -- it was remarkably protective.

GOVERNOR HOGAN: I'm going to let that comment just go by.

(Laughter.)

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COMPTROLLER FRANCHOT: Yeah. But I told them all that, you know, the hat is just an unbelievable honor and I'm delighted to have it and I will put it in my office. Maybe I'll wear it during the next legislative session. But Governor, if you ever have, you have one of the finest battle axes I've ever seen in my life in your office somewhere back there. And that is a self-defense weapon. If you could possibly maybe put a word in for me with the powers that be in the Firemen's Association, I'm happy to pay for it. But I would love to have one of those in my office just so I could --

(Laughter.)

COMPTROLLER FRANCHOT: -- feel a little bit more comfortable.

GOVERNOR HOGAN: It's a giant, you know, ceremonial axe. And it's very intimidating when you come in for a meeting because it's just --

(Laughter.)

GOVERNOR HOGAN: -- the firefighters honored me with it. I just like to have it in there for effect.

COMPTROLLER FRANCHOT: Yeah, I know you do. Thank you very much.

GOVERNOR HOGAN: It had an impact on the Comptroller, obviously.

(Laughter.)

GOVERNOR HOGAN: But --

TREASURER KOPP: Governor, could I say one more thing? You mentioned Juneteenth and I should have reported to you earlier, actually, so I'm doing it now here. The Hall of Records commissioned two weeks ago and we asked for an update on the Harriet Tubman and Frederick Douglass statues for downstairs. And they assured us that everything was on schedule, that they would be up January of this coming year.

GOVERNOR HOGAN: It's going to be great.

TREASURER KOPP: So I know you're interested.

GOVERNOR HOGAN: I'm looking forward to that. We can do that during the session.

Before we get started with the Secretary's Agenda, I just want to welcome, for four years we had a guy here named Mark Newgent, who I see sitting in the audience, that was the Governor's staff person in charge of the Board of Public Works. He's now I think unemployed.

(Laughter.)

GOVERNOR HOGAN: He actually has moved on to do procurement for MDOT and Valerie Radomsky, who used to be with the Comptroller, and then became the School Accountability Officer, is now going to be our officer here at BPW. So I want to welcome Valerie to the team.

(Applause.)

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GOVERNOR HOGAN: And with that, we can start with the Secretary's Agenda.

SECRETARY MCDONALD: Good morning, Governor, Madam Treasurer, Mr. Comptroller. We have 23 items on the Secretary's Agenda. We have four reports of emergency procurements. We are ready for any of your questions. We did receive a late request to speak on one of the items.

GOVERNOR HOGAN: Yeah, I'd like to start with Item 7.

SECRETARY MCDONALD: Okay. Item 7 is the Public Safety, Secretary is here, yeah, Mr. Secretary Green can come up. And that is the item that we have somebody who wants to speak. So the Secretary can explain the item and then we'll call Mr. Cross up. Mr. Bezanson is here as well.

GOVERNOR HOGAN: First of all, I'd like to welcome I think perhaps to his first official BPW meeting as Secretary, our new Secretary of the Department of Public Safety and Corrections, Secretary Rob Green. So if we could give him a round of applause --

(Applause.)

GOVERNOR HOGAN: You know, I just, I don't really have questions about this. I just wanted to highlight the item and then I know I think we have someone that wants to come and speak about it. We'll let you guys touch on this. But we're here to approve a contract on the demolition of the Baltimore City Correctional Complex. This is to remove the buildings which

have been sitting vacant since we closed the Baltimore City Detention Center in 2015, which I think was universally applauded. We finally brought an end to the long history of deplorable conditions at that facility. And the demolition of these buildings is going to make room for a therapeutic detention center where we can provide opioid addiction treatment and mental health treatment. And I just want to say that we're very excited to have that item before us and want to thank you. And David Bezanson, I want to thank you for, I know you've worked on this for a couple of years. We want to thank you for your leadership. And with that, I'll turn it over to you, Mr. Secretary.

MR. GREEN: Yes, sir. Governor, you've explained the project very well. We seek approval for the demolition of multiple structures, multiple buildings at the Baltimore City Complex, as you noted, to make room for a much needed therapeutic treatment center. We've worked collaboratively with the Maryland Historic Trust in this undertaking and we've developed, that work resulted in a memorandum of agreement in how the work would be undertaken. The project has been reviewed by the Department of Planning clearinghouse and has been recommended to proceed as well. So we seek approval so we can move forward with this project expeditiously.

GOVERNOR HOGAN: Very good. Anybody have any questions while they are up here that I know of? I think we have someone signed up to speak.

TREASURER KOPP: I do. I know you've reached a memorandum of agreement and I know you are preserving some of the most historic buildings, as I understand it. I don't know much about it, to be candid. But I do know that there is a history of a couple of centuries in that complex going back to at least 1811. What are you doing in fact to make sure that we don't waste this opportunity to discover more about our own history?

MR. GREEN: I'll let our topic matter expert, Assistant Secretary Bezanson, speak to the work in progress and where we are.

MR. BEZANSON: Madam Treasurer, in our agreement with Maryland Historic Trust, we have agreed to document all of the structures that are affected by removing historic structures in accordance with federal and State regulation of documenting and preserving for history those records of those structures, much like the archival history when we removed structures at the Maryland House of Correction, and in 1995 we removed the south wing of the Maryland Penitentiary and preserved records for that.

There are some buildings on the site that date back to the mid-1800s, namely the Baltimore City Detention Center main building. However, the Historical Trust had indicated that architecturally, before the State owned that property, the modifications to the building removed so much of the historic documentation of that building that it really wasn't a building of interest. There were four buildings of interest and a fifth building, known as the castle, the

administration and warden's house of the old City Jail. We're preserving that at this time until we've developed a plan for the therapeutic treatment center.

So through a series of recordkeeping and making documentations with preservation experts, the Board of Public Works approved on May 22nd an agreement with our architectural firm to perform all that record before these are sequenced for demolition.

TREASURER KOPP: During the process, is there going to be any effort to use the opportunity, I mean, you are digging up space in historical space, any effort to use that as an opportunity for learning more? I'm thinking not necessary just of the structures but of the complex, of the campus?

MR. BEZANSON: There is a great deal of documentation on the Maryland Penitentiary. There was a book written by a former correctional officer called *A Monument to Good Intentions*, which documents the entire history of that penitentiary building. So --

TREASURER KOPP: Yeah, maybe we could follow this up afterwards?

MR. BEZANSON: Yes.

TREASURER KOPP: I mean, the agreements have been signed. I'm not for unsigning them and I support this strongly. I think there is an opportunity beyond just looking at the buildings --



MR. BEZANSON: We will work with whatever groups or interests as we go through --

TREASURER KOPP: And get some --

GOVERNOR HOGAN: Maybe you could agree to follow up with the Treasurer --

MR. BEZANSON: Yes --

TREASURER KOPP: Yes. Absolutely. Thank you.

GOVERNOR HOGAN: -- and address any concerns or ideas --

TREASURER KOPP: Thank you. It's a great move.

GOVERNOR HOGAN: Yeah.

MR. BEZANSON: Thank you.

GOVERNOR HOGAN: Thank you both very much. Any other -- oh, so we have somebody signed up --

SECRETARY MCDONALD: Mr. Cross is coming in right now.

GOVERNOR HOGAN: Mr. Kelly Cross is --

SECRETARY MCDONALD: Yeah. I believe he was held up because of the crowd but that he is making his way in. So Mr. Cross, do you want to come up to the stand? Unfortunately, I don't know if you heard the presentation then. I thought he was in the room. Mr. Cross, just come up to the stand here and introduce yourself to the Board members and tell us what you have to say.

MR. CROSS: Greetings, sorry I'm late.

SECRETARY MCDONALD: That's okay, no, you were out there

--

MR. CROSS: My name is Kelly Cross, President of the Old Goucher Community Association in Baltimore and a resident of Center City Baltimore, where the jail is located.

I just had a few words I wanted to share with you all today -- and very good to see you all today. Thank you for having me. A little over three years ago, shortly after Governor Hogan's closure of the jail complex, I brought together a group of people with an expansive vision for the site. Two billionaires, one from Europe, one from the U.S., two of the most prominent architects and urban planners in the U.S., First Lady Yumi Hogan, and several members of the Governor's cabinet. The vision conceived for that site was breathtaking, a redevelopment centered around one of the few remaining 19th century jails in America; an arts, cultural, and commercial destination that would not only serve the people of Baltimore and Maryland, but would bring in tourists from all over the world. A new vision for the jail, perfectly situated dead center in Baltimore City, would spark positive transformation of all the neighborhoods around it.

When Baltimore's former Mayor Catherine Pugh balked at the last minute on a trip to Europe to meet with potential investors, some of the people who wanted to put money into this project, interest in the project began to

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evaporate. If the City's own leadership was not enthusiastic about the project, why would international investors be interested in Baltimore or in Maryland? But with new leadership emerging in Baltimore and a fresh, progressive vision on how to develop the City, it's worth putting the brakes on the current proposal. Not only would demolition of any historic portions of the jail be a travesty, but the notion of rebuilding more prison facilities in the center of Baltimore City runs counter to everything we know about how to restore and reconnect Baltimore's neighborhoods.

The jail complex creates a chasm between City Center Baltimore and East Baltimore. It segregates our neighborhoods. Its location in the center of the City sends out a symbolic message that crime and imprisonment are the defining features of the City. Let's be clear, we don't need a new prison in the center of Baltimore. But I can think of a far more appropriate site, and that would be Port Covington in South Baltimore. So thank you very much.

GOVERNOR HOGAN: Thank you. Are there any questions on this item or any other questions on the Secretary's Agenda?

TREASURER KOPP: Just on the Secretary's Agenda, Item 11. I would just point out, just point out that it's Smith Island, clean water. But there are a couple of other items like that which refer to being constructed in accordance with the Coastal and Non-Coastal Resiliency Guidelines developed as part of the CoastSmart Program. And I just want to thank the department for

putting that in, for keeping us on top of it, and for making sure, I hope we will see the day soon when the majority of the projects that come before us, not just in Natural Resources or Environment, will have gone through the same sort of scrutiny and be able to say that, yes, we are building them with an eye towards resiliency and the future in the face of climate change. So I just thank you all.

GOVERNOR HOGAN: Great. Thank you. Is there a motion?

COMPTROLLER FRANCHOT: Could I just say something about the previous item which caught my eye? I hate to bring it up, I guess. But it is a historic edifice, which is the Catholic Church up in Baltimore that's receiving, someone is receiving a big chunk of money. And apparently it's going to the Ministry of Brewing because in this wonderful --

GOVERNOR HOGAN: The Ministry of what?

COMPTROLLER FRANCHOT: Brewing.

TREASURER KOPP: MOB.

COMPTROLLER FRANCHOT: Yes. Let me just read this. This is a \$750,000 grant through the Neighborhood BusinessWorks Program to the Ministry of Brewing, LLC for improvements, furniture, fixtures, and equipment in 15,000 square feet of leased space in a former Roman Catholic Church located in the Upper Fells Point area of Baltimore. The 130-year old church, which is listed on the National Register of Historic Places, closed in 2011. A development team of very prominent people is converting it into a brew pub. So I just want to for

the record say, as a wonderful advocate of Maryland craft beer, this is a wonderful symmetry and convergence of interests. And I'm sure that the folks that are doing this are going to be very successful. And I think the church to the extent it is maintained as far as its historic features is going to be truly a magnet for new young people to come to Baltimore and witness and live in one of the greatest cities in America, particularly in one of the most unique neighborhoods of that district. And I'm delighted to see the both spiritual and alcoholic partnership, I guess, that this represents. And take my hat off to the folks that had the courage to move forward with this and thank you very much, Governor, for your administration's support. I hesitate to toss the ball to you, but you know.

GOVERNOR HOGAN: I really didn't know about the Ministry of Brewing. But it seems like it might help generate some new interest in the church, maybe.

(Laughter.)

COMPTROLLER FRANCHOT: I hadn't thought of it that way. But that's, I'm an Episcopalian. So good.

GOVERNOR HOGAN: On the last item, I'll just point out again that what we're talking about is tearing down these old buildings so that we can provide drug treatment and mental health counseling, which is desperately needed, as opposed to building a new jail facility. But any other questions? Or is there a motion to approve?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Second?

TREASURER KOPP: Second.

GOVERNOR HOGAN: Three-nothing. We'll move on to --

SECRETARY MCDONALD: Thank you.

GOVERNOR HOGAN: -- the DNR Real Property Agenda.

MS. HADDAWAY-RICCIO: Good morning, Governor, Madam Treasurer, and Mr. Comptroller. We have 11 items on our Real Property Agenda today for which we are seeking approval, and we are withdrawing Item 1A.

GOVERNOR HOGAN: Questions on the Real Property Agenda?  
Is there a motion?

COMPTROLLER FRANCHOT: Move approval.

TREASURER KOPP: Second.

GOVERNOR HOGAN: Second? Three-nothing. Next we're going to go to Department of Budget and Management.

MR. BRINKLEY: Good morning, Governor, Mr. Comptroller, Madam Treasurer. For the record, I'm David Brinkley, the Secretary of the Department of Budget and Management. We have brought 17 items for today's Agenda. I have people here to address any questions or concerns you might have. Also, you may recall that at the June 5th meeting I withdrew an item that is back

on your Agenda as Item 15-S for MPT because we have verified that the tax clearance number has been satisfied.

GOVERNOR HOGAN: Great. Any questions on DBM?

TREASURER KOPP: I do have a question on 4-S, the Health Department, I'm not opposed to it. The Health Department's scanning project. I just want to make sure that in outsourcing it to this company, and I understand why you're proposing the outsourcing, that all of the privacy protection mandates are going to be not only in place but monitored?

MR. DEMBROW: May it please the Board, good morning. My name is Dana Dembrow, Director of Procurement for the Maryland Department of Health. And yes indeed, all requirements will be monitored. In the case of using preferred providers, we have the benefit not only of Department of Health staff making sure that jobs are done adequately, completely, and confidentially where required, which is often the case with health records, we have the support of Maryland Works. So this preferred provider will be doubly supervised. And I think that you need not have concern about release of confidential information.

TREASURER KOPP: Just to note, my experience, as you know, Dana, over the years has been too often when we outsource things, we think we've taken care of it and when the next budget comes the oversight lapses. And it's just something I think we have to be sensitive to.

MR. DEMBROW: I'll ask Adrian Basey to have a second look at this and verify with your office in a follow-up that indeed we will be monitoring this contract very carefully. I should point out this involves simply scanning of information --

TREASURER KOPP: Yes.

MR. DEMBROW: -- into OCR that goes into the cloud so it's retrievable by optical character recognition later. But there is not a great opportunity for divulging information as there would be in a computer database system, for example.

TREASURER KOPP: Thank you.

GOVERNOR HOGAN: Other questions on DBM?

COMPTROLLER FRANCHOT: Item 6-S.

MR. BRINKLEY: 6-S, Amalie Brandenburg.

MS. BRANDENBURG: Yes, I'm here.

GOVERNOR HOGAN: Good morning.

MS. BRANDENBURG: Good morning.

COMPTROLLER FRANCHOT: Yes, good morning. This is apparently a request from -- is it your department that's requesting this?

MS. BRANDENBURG: Requesting the item?

SECRETARY MCDONALD: Yeah, Amalie, why don't you introduce yourself and your department?

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MS. BRANDENBURG: Yes. I'm sorry. Yes. I'm Amalie Brandenburg. I'm the Deputy for Finance at MSDE.

COMPTROLLER FRANCHOT: Okay.

MS. BRANDENBURG: This contract is to provide advanced research and data analysis for the Child Care Subsidy Program.

COMPTROLLER FRANCHOT: Terrific. No, I'm delighted you're here.

MS. BRANDENBURG: Okay --

COMPTROLLER FRANCHOT: Because, and I'm not obviously upset with MSDE.

MS. BRANDENBURG: Thank you. It is much appreciated.

COMPTROLLER FRANCHOT: This is a, one of those old chestnuts that was before us on March 6th --

MS. BRANDENBURG: Correct.

COMPTROLLER FRANCHOT: -- and we deferred action because the department at that point was unable to identify the origin of the amazing budget bill language in 2018 that prohibits Towson University and a group within Towson University called Regional Economics Studies Institution, RESI, which was the incumbent provider of these services. There was legislative language in the budget that banned them from participating in the procurement for a replacement contract. In fact, RESI submitted a proposal, which I think MSDE

rejected citing the budget bill language. So I'd like to ask again, was this budget bill language requested by your agency?

MS. BRANDENBURG: No. MSDE did not request the budget bill language.

COMPTROLLER FRANCHOT: And do you have any idea who offered it or why they offered it?

MS. BRANDENBURG: So my understanding is that DBM has provided additional information in a memo. I think it went out on Monday. And I would certainly feel more comfortable if DBM wanted to address those questions directly as they were the author of the memo.

GOVERNOR HOGAN: Yeah, why don't we have DBM address that then?

MR. BRINKLEY: -- got anything on that --

GOVERNOR HOGAN: I haven't seen any memo from Monday.

MR. BRINKLEY: Marc Nicole is the Deputy Secretary of the Department of Budget and Management.

MR. NICOLE: Good afternoon, Mr. Governor, Mr. Comptroller, Madam Treasurer. Marc Nicole, Deputy Secretary of DBM. Mr. Comptroller, we had a, there was concern previously expressed with the quality of the analyses that the folks at Towson University had prepared. The legislative staff had remarked upon those to us previously and we believe that it was sort of their

staff's interpretation that the quality of the analysis was not adequate at the time. There had been some concerns around some changes in federal regulations and the ability of RESI to adequately predict the financial and fiscal impacts of those regulations. And they had predicted a lot more spending would occur. That spending did not materialize, which resulted in a lot of federal funds that went unspent for many years which could have been used to get children off of waitlists. And so, there was a lot of concerns with the legislative staff, with legislators who were kind of upset that we could have been serving more kids at the time than we were.

COMPTROLLER FRANCHOT: Right. But isn't it the responsibility of MSDE, the expert agency, to make that request? Why would we, in a supposedly fair and transparent and competitive procurement system, award a single bid contract to a Tennessee company and specifically prohibit the agency from, apparently they thought they were not allowed to consider the RESI application, where they could have made the decision on the merits as to whether the previous performance was worthy of renewal or not? Instead we have this mysterious process of behind, you know, somehow it happened, the language got put in. Nobody knows who did it or -- I can understand your explanation. But it's a little after the fact in my view. So I'm very concerned about this particular contract. I'm going to vote against it, not because I don't think the work that's being done isn't important. I do. Obviously, it is. But because of the way in

which this single bid contract is being presented to us, with a very reputable university, Towson University, essentially being told, no, you're not even allowed to submit a proposal. I just think that is the wrong use of the budget process and the wrong use of the procurement process.

MR. NICOLE: So the Attorney General's Office did look at that particular language and the restriction and ruled that that was a sort of valid use of legislative authority in the budget bill.

COMPTROLLER FRANCHOT: Well, that's also disappointing.  
So thank you very much.

GOVERNOR HOGAN: Is this a, can you think of any other, Marc, can you think of any other examples where a legislator or legislators would introduce legislation to interfere with the procurement process to specifically prohibit a Maryland operation from participating, therefore requiring a single bid from an out-of-state company?

MR. NICOLE: I am not aware of any such instance before.

GOVERNOR HOGAN: And it's the testimony of MSDE that they did not request this of the Legislature? Very strange circumstance --

TREASURER KOPP: Does MSDE disagree about the product? I mean, there were millions of dollars --

MS. BRANDENBURG: No. In short, while we didn't request the budget bill language, there were concerns about accuracy of the projections from the Regional Economic Studies Institute of Towson University.

COMPTROLLER FRANCHOT: Yeah, but that's --

GOVERNOR HOGAN: But you didn't go to the Legislature to ask them to put in the legislation --

MS. BRANDENBURG: We did not go to ask. It got put in. But yes, we had concerns with the accuracy of their projections.

GOVERNOR HOGAN: It just doesn't seem like an executive branch agency should go to the Legislature to get them to interfere in a procurement process, or that the Legislature should be inserting themselves into the process. I mean, I tend to agree with the Comptroller's concerns here. What, what would be the impact of us delaying this item again? Till we get more information about how this occurred and why?

MR. NICOLE: Governor, can I make on additional comment in that --

SECRETARY MCDONALD: Could you come to the podium and the microphone?

MR. BRINKLEY: Go to the microphone.

SECRETARY MCDONALD: Thank you.

MR. NICOLE: One additional comment that I would have is this was restrictive language saying that Towson University was not allowed to bid on this particular contract in fiscal year 2019, and it be awarded to them in fiscal year 2019. So the restriction really is one year. It expires at the end of June. So certainly, there is an ability to --

GOVERNOR HOGAN: End of this month?

MR. NICOLE: At the end of this month to take a different approach here.

TREASURER KOPP: What would be the approach be?

MR. NICOLE: To go out and do another procurement and allow everyone, including Towson University, to bid on the contract.

GOVERNOR HOGAN: Yeah.

COMPTROLLER FRANCHOT: Could I make that motion, that this particular proposal be rejected and that the agency move forward, Towson or whatever, whoever, MSDE, move forward with a truly open, transparent procurement that is not burdened, shall I say, with legislative budget language.

GOVERNOR HOGAN: I'll second. All those in favor?

COMPTROLLER FRANCHOT: Aye.

GOVERNOR HOGAN: All those opposed? Motion carries three-nothing.

SECRETARY MCDONALD: Three-nothing disapproved?

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GOVERNOR HOGAN: Disapproved.

SECRETARY MCDONALD: Thank you.

GOVERNOR HOGAN: Thank you. Other questions on DBM? Is there a motion?

COMPTROLLER FRANCHOT: There is. But I just wanted to comment on Item 14, since I raised some concerns.

MR. BRINKLEY: Greg James.

GOVERNOR HOGAN: Secretary James?

MR. JAMES: Good morning, members of the Board. I'm Greg James, Deputy Secretary for Operations at the Maryland Department of Human Services.

COMPTROLLER FRANCHOT: And I'm going to be just candid and say I appreciate what your response from the agency has been. I understand that we don't want to affect any of the kids that are involved in this situation. So I'm going to vote to approve this current situation before us. But I hope that in the future the 32 Maryland companies that provide foster care contractual services to you are the ones that are brought back before us to the extent possible. And I appreciate the situation that you're in and I don't want to obviously affect any of a small number of children. But I hope that we don't see this situation down the road. Because I think this issue is going to become larger rather than smaller.

MR. JAMES: Thank you, Comptroller. We appreciate it.

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COMPTROLLER FRANCHOT: I assume you will move forward with your expertise and figure out how pragmatically to accomplish something that is, that I'm referring to. And I appreciate the information that you have provided. Thank you.

MR. JAMES: Thank you, Comptroller. Thank you for your support.

GOVERNOR HOGAN: Thank you.

TREASURER KOPP: Governor, Item 12. The fleet. Mr. Secretary --

MR. BRINKLEY: Yes?

TREASURER KOPP: -- so this is essentially the same fleet list potential for the State to buy as last year?

MR. BRINKLEY: Right.

TREASURER KOPP: And I looked through the list and I looked through the policy. And considering the fact that MDOT and everyone else agrees that transportation is the greatest producer of greenhouse gas emissions, and that the State should be a leader and we should focus on reducing emissions, this item shows absolutely no recognition of that whatsoever. And when asked we are told that the Electric Vehicles Commission is looking at it and we'll come back with something else next year. We are supposed to reduce emissions by 40 percent by 2030. 2030 is ten and a half years from now. It's not a long time.



And we are not being a very good role model. I'd like to hear you explain why we are and why I'm mistaken.

MR. BRINKLEY: Madam Treasurer, this is Joe Consoli. He's -- when did you come on? Last year.

MR. CONSOLI: Last year.

MR. BRINKLEY: We brought him on board to handle the transportation issues. And you and I had a conversation yesterday about this, and I know Joe when he goes into this is going to -- I think he's sick and tired of me drilling this same issue about our fleet conversion. So go ahead, Joe.

MR. CONSOLI: Good morning.

TREASURER KOPP: Good morning.

GOVERNOR HOGAN: Good morning.

MR. CONSOLI: Thank you for having me. I too am a believer in the green vehicle transition. So I'm completely there.

TREASURER KOPP: Well we're all believers. But here's a chance when we could do something and we're not doing it.

MR. CONSOLI: And what we've done is, as every year but this year in particular, we extended invitations to all the manufacturers who are out there basically to come meet with us and talk about what they did provide in different vehicle type categories. And we listed each vehicle type category that have the hybrid. So we basically are offering, will have contracts for every

electric based vehicle available out there for the government agencies to purchase. We are pushing forward with that. We want to make sure that those things, and I've relayed that to all the fleet managers throughout the State, that we are pushing that. Also, though, to add to that, Section 42 of the budget, the amendment or the adjustment this year, will cause us to be purchasing 65, approximately 65 electric or plug-in hybrid vehicles to meet the mandate by the Legislature. And that will actually put us in advance of or beyond our current requirements for a percentage of our eligible fleet to be green. So after FY '20 when these vehicles are purchased, we'll be in a good stead in terms of our progression towards our percentages and meeting what is required of us.

MR. BRINKLEY: Joe, touch base also on what's available for State services. We have different needs as we go to the Shore and Western Maryland and the metropolitan areas.

MR. CONSOLI: Correct.

MR. BRINKLEY: You and I have been talking about what manufacturers are out there and what we possibly can do from a fleet perspective.

MR. CONSOLI: Obviously, this comes into infrastructure as well, which we're working on with other agencies. But the manufacturers basically are offering sedans, compact sedans, mid-size sedans, a crossover, or a compact SUV, and a minivan, a full-size minivan. Those are the things that they are offering in electric, plug-in, or just --

TREASURER KOPP: I read your list.

MR. CONSOLI: Yes. You did. So those are the things we're having available to everybody throughout the State. But without significant or sufficient infrastructure, certain places just don't have the range to be able to use the straight vehicle, the straight electric vehicle. The plug-in hybrid is nice because you do get about a 20-mile boost of electric only operation before it kicks into the hybrid version. So I know we are trying very hard to push and to advance this particular thing and with our purchase standards we did try to include everything that was currently available --

TREASURER KOPP: So you included a lot of stuff. But where is the leadership?

MR. CONSOLI: The leadership will follow once we get our contracts and we can actually go to the agencies and say, these are things we would suggest you buy as opposed to buying a combustion engine vehicle.

TREASURER KOPP: So --

MR. CONSOLI: They could also, this vehicle could also suit or fill your need.

MR. BRINKLEY: And I'll point out that the vehicle that we had for DBM staff use was 18 years old and we just replaced that with a used vehicle that we got from another agency --

MR. CONSOLI: That was seven years old.

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MR. BRINKLEY: -- that's seven years old that we're, so you have a fleet transition issue, too. He's trying to make sure that we have, you know, a product line that is adequate to whatever function it might have and is compliant with that. The other thing we'll then need to do is to make sure that we have, we have been in conversations with DGS about ensuring that we have some plug-in facilities here in Annapolis and also in some of the --

TREASURER KOPP: As I understand it, the Governor has devoted a significant amount of the Volkswagen money to setting up electric capacity around the State. We are doing that. But who is going to tell all these people that you can choose from any of these, but this is the one, it's the State's policy, we've got to reduce emissions 40 by '30, 50 by '40, and in order to do that this is what the State is expecting of you?

MR. CONSOLI: We --

TREASURER KOPP: Who does that?

MR. CONSOLI: -- can be the leader there.

MR. BRINKLEY: Yeah.

MR. CONSOLI: We can absolutely push that upon the agencies that our preference be --

TREASURER KOPP: And how will we know that you're doing that? What are the indicators that will show us that in fact our fleet, for which we

are responsible, is turning into the low emissions fleet that we want, or the no emissions fleet that we want?

MR. CONSOLI: I think year to year numbers of purchases will demonstrate the increase of that product line into our fleet.

TREASURER KOPP: And during the year?

MR. BRINKLEY: I think even in your inventory that you have we can get that information to you, too. I know that I drive a, mine is a 2013 hybrid. It's not the most efficient from today's perspective but it is what was available to the previous Secretary and I've kept that car in service. And again, I've been all over Joe about what can we offer that is functional, meets the purpose of the agencies and the personnel, and yet also we don't leave people stranded on the roads? And I think that's where we're working with DGS on that.

TREASURER KOPP: I've been driving, as you know, a hybrid Ford since I essentially became Treasurer and I've never been stranded. And I haven't driven it --

MR. BRINKLEY: -- yeah, I don't think your is plug in either, is it?

TREASURER KOPP: No, it's not.

MR. BRINKLEY: Yeah.

TREASURER KOPP: It's not all the latest model --

MR. CONSOLI: No, hybrids are wonderful vehicles. And you're right, you'll never be stranded. You'll extend your range because you're using electric power and --

MR. BRINKLEY: Right.

MR. CONSOLI: -- combustible gasoline.

TREASURER KOPP: But somebody, I was disturbed when I got the message, well, next year we'll make changes. Next year the EVIC will do something. We don't have a lot of years in which to make changes. And I don't know, sir, whether you're the person, whether DBM is even the department. But somehow, the State has got to take ownership of this issue.

MR. CONSOLI: I believe the, I believe, I could be corrected, that the money that was allotted from the VW settlement for the installation of infrastructure was in large part put under the direction of MDE to go to be discussed with other agencies as well.

TREASURER KOPP: Mm-hmm.

MR. CONSOLI: So that's part of --

TREASURER KOPP: So you want MDE to direct people --

MR. BRINKLEY: Well part of what they're using it, also, they are using a lot of it out at the Port facilities. They are supposed to get some diesel emission vehicles out of service, put some electric or propane or some other alternative type of fuel in service. I think you're doing that with some forklifts

and some other opportunities. But then we're also looking forward for the infrastructure.

MR. RAHN: And we're placing electric buses at the Airport. So we'll have a fleet of electric buses at the Airport.

TREASURER KOPP: Well that's great. Every piece helps. But here we are talking about the State's fleet.

MR. BRINKLEY: And Madam Treasurer, it will be the responsibility of DBM. Joe has been on board now for a year to help us with that transition. His predecessor, unfortunately Larry Williams died in office and we had 18 months to get him on board. So that has impacted our transition. But now we're also trying to ensure that what's available in the marketplace will allow us to do it. And I think we're getting some positive feedback, as I understand, finally, but then we also have to ensure that we're in collusion in getting some of the infrastructure in place.

MR. CONSOLI: And I also discussed with the manufacturers at our meeting in May that this was Maryland's position. We are going green. We are absolutely interested in any type of hybrid, plug-in, electric vehicle.

TREASURER KOPP: We are not the only ones who are doing this. They have a significant market.

MR. CONSOLI: No, I understand that. I have colleagues throughout the country who are doing, like California and other places, doing a

lot. But I wanted to let them know that we are no longer in the game just for combustion engines. We really, really, really are pushing to go to --

TREASURER KOPP: So how will we know? How do we set up a system of reporting to --

MR. BRINKLEY: I'll get you updates on some of this aspect. Some of our budget, this is outside of the hybrid and plug-in aspect. But our conversations from a budgetary perspective with agencies is what vehicles do you have, how many are you using, are we getting the mileage out of them, and that's part of the criteria --

TREASURER KOPP: And do we need all the cars that we've got?

MR. BRINKLEY: Do we need all the ones that you have --

MR. CONSOLI: I agree.

MR. BRINKLEY: -- are you using the ones that you do have? And in that turnover process we've been focused on, see, we've had conversations with State Police. To what effect can they implement this type of guidelines based on their, the mileage that they do and also some of the demands on theirs. And we're looking for opportunities --

TREASURER KOPP: So you're saying this is a work in progress and we will keep on top of it.

MR. BRINKLEY: Yes.



TREASURER KOPP: And we will know because we will develop together some metrics --

MR. BRINKLEY: Yes.

TREASURER KOPP: -- so that we can see that progress.

MR. CONSOLI: Absolutely --

MR. BRINKLEY: I'll share that --

TREASURER KOPP: Before next year.

MR. CONSOLI: Absolutely. Absolutely. And there are also, for the record, there are actually hybrid police pursuit rated vehicles that are available or will be available around the country.

TREASURER KOPP: That's what I want.

MR. CONSOLI: It is incredible. And actually, being a retired Maryland State Trooper, I can tell you a lot of our time, any police officer, is spent in idle time. A lot of energy is expelled by the combustion engine, a lot of time on the motor.

TREASURER KOPP: Good point.

MR. CONSOLI: So you're developing mileage on that motor even though it's not driving anywhere. But when it kicks into a hybrid mode, it's strictly a battery function and it doesn't take away from any of the function that the police vehicle can do and yet you're extending your MPG, you're extending all of those things. So they are also included in the package as well. We're trying

to piece everything we can in to get to the broader picture of making our fleet as green as possible.

TREASURER KOPP: Thank you. I look forward to this continuing conversation.

COMPTROLLER FRANCHOT: Could you get me a picture of the Treasurer in the police vehicle? If she chase --

MR. CONSOLI: I --

COMPTROLLER FRANCHOT: -- yes, I would love to see that --

MR. CONSOLI: I can make that happen.

COMPTROLLER FRANCHOT: Hybrid, yes.

MR. CONSOLI: I'll follow up. Yes, sir.

TREASURER KOPP: I'll be there.

(Laughter.)

MR. CONSOLI: Thank you.

COMPTROLLER FRANCHOT: Governor, I had a question on Item 17. You obviously know this issue. I don't have any problem with the State Center part of it, but I do with the \$85,230 allocation to cover legal costs for Howard County District Court Judge Mary Reese. She was sanctioned by the Maryland Commission on Judicial Disabilities following a complaint filed by the Women's Law Center in Maryland on her conduct in two domestic violence

protective order hearings. That was ultimately overturned by the Court of Appeals and she has filed for \$85,000-plus in legal costs.

This is not a complaint over the decision that she made. It simply is a complaint about the advice and the conduct that apparently was exhibited in her courtroom. In one instance there was a less than four-minute hearing on whether to provide a protective order to a 17-year-old woman standing before the Court, her, the Judge, with a black eye. Four minutes. Secondly, in another similar situation the Judge gave advice, “when you’re picking a fight with him,” this is to a young woman, “when you’re picking a fight with him and he wants you out of the house or out of the car and you’re not leaving, then you got to expect to lose the fight.”

So we entrust our judges to be neutral umpires, to call balls and strikes, not to offer unwarranted and unnecessary comments that seem to normalize domestic violence, or perfunctory hearings that fail to provide an opportunity for justice. So obviously judges like Mary Reese hold immense power. They are not, however, immune to holding high professional standards. And I consider the standard here not to have been met and I’m voting against the \$85,230 bill that she submitted to the State for her legal expenses. Obviously she was entitled to get an attorney and go before a court. It’s entirely appropriate. But I don’t think it’s appropriate for the State taxpayers to foot her legal bill,

given the context of her comments. So I would like to vote for the State Center allocation, not for the Judge Mary Reese allocation. If that's possible.

GOVERNOR HOGAN: Is there a motion --

COMPTROLLER FRANCHOT: And I would make that motion.

GOVERNOR HOGAN: -- to pull that out?

TREASURER KOPP: Well --

MR. ANDREWS: May I be heard about Judge Reese because I --

MR. BRINKLEY: Are you Phil Andrews?

MR. ANDREWS: I am.

MR. BRINKLEY: He's, if you have some questions I have him here to address any questions you might have. If you've come to the conclusions, we can just move forward.

COMPTROLLER FRANCHOT: I'm just going from the record that I have.

SECRETARY MCDONALD: That's counsel for Judge Reese.

MR. BRINKLEY: Yeah.

TREASURER KOPP: Pardon?

SECRETARY MCDONALD: He's counsel for Judge Reese. I'm telling you who Phil Andrews is --

GOVERNOR HOGAN: We don't have anyone signed up to speak here so --

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SECRETARY MCDONALD: No, we did not get a request.

MR. BRINKLEY: I have Phil Andrews and Marc Nicole if we need to get into any details --

TREASURER KOPP: I do have a question about this. I --

MR. BRINKLEY: Phil, why don't you come up to the microphone?

TREASURER KOPP: I just have some factual questions. And I understand, I believe, the history of this particular incident but I want to make sure. The Judge chose to go before an administrative board and did not ask for representation from the Office of Attorney General, right?

MR. ANDREWS: For the record, Philip Andrews on behalf of Judge Mary Reese. I appreciate the Board hearing me out. Good morning to all three of you. To answer your questions, Madam Treasurer, my understanding is there was a conversation that Judge Reese had with someone from the Attorney General's Office. And because this was an administrative proceeding against her --

TREASURER KOPP: That's right. And there's no precedent for the Attorney General --

MR. ANDREWS: That is my understanding. That's what I understand the Judge was told. So, had she been a State employee who had been sued for doing her job -- and I would like a moment just to address the context in

light of the Comptroller's comments. Had she been a State employee who had been sued, then the Attorney General's Office would have offered her representation. Of course, the Attorney General's Office --

GOVERNOR HOGAN: It was the State that ruled against her.

MR. BRINKLEY: The Commission.

MR. ANDREWS: I'm sorry?

GOVERNOR HOGAN: It was the State that found her guilty of this inappropriate comment --

MR. ANDREWS: Well if I may, Governor, the --

GOVERNOR HOGAN: The Judicial Grievance Commission is not just some perfunctory group.

TREASURER KOPP: No.

GOVERNOR HOGAN: It's the group that's charged with reviewing judicial conduct.

MR. ANDREWS: It is. But it is supposed to be a place where there is due process and fairness. And this is a public servant --

GOVERNOR HOGAN: Right. And they made a decision, right?

MR. ANDREWS: -- who was doing her job --

TREASURER KOPP: And it was --

MR. ANDREWS: -- and it was actually on the two cases, if I could address the context. One case, the Lewis case, there were two cases that were

investigated and prosecuted for three years that she went, that she went through this process. At the end of the process, after a trial if you will in front of the Commission, the Commission dismissed one of the cases. That was the one about the comment if you pick a fight with him. It turned out the reason that case was dismissed is that the woman, the wife seeking the petition, was actually found to be the aggressor. And the Judge's words of advice were don't pick a fight with somebody. You're not going to win that fight. But the Commission ended up dismissing that one after the trial.

The other issue with the 17-year-old had to do with this. Grandmother, 17-year-old granddaughter, walk into the courtroom. They are called up. This is an ex parte proceeding. So the Respondent, the person against whom the peace order is sought, is not there. The grandmother comes up with her granddaughter and Judge Reese says, good morning, and the granddaughter, the grandmother, excuse me, says her former boyfriend two weeks ago tracked her down to a friend's house by using her phone and came in and assaulted her. At that point, Judge Reese encouraged the grandmother to provide the information that was the evidence, then turns to the granddaughter and says, "Ma'am, what would you like to tell me?" And the granddaughter says, "Everything she said is true." And the Judge said, "Well, has he done this before? Did you have a conversation with him that day?" "No. No, I've blocked him on my phone, and I haven't heard from him." And the Judge says, "Well, it sounds like you're taken

care of.” And then the Judge said, you know, she waited to see if there was anything else. There was no other evidence forthcoming. And the Judge said, “I have a statute to apply.” She says, “I have to find that there is a reasonable belief, I have to have a reasonable belief, that not only did this person commit the assault but also that he’s likely to do it again.” And she said, “I find the second aspect missing. And so, I, the statute isn’t satisfied.” She didn’t rush anybody through. Yes, it was a brief hearing. This is District Court. This is ex parte. And there’s not been a bit of suggestion in front of the Commission or anywhere else that there was some evidence the Judge should have heard or that the Judge shooed people away. And at that point, she said, “I cannot issue the peace order under the circumstances. The statute will not allow me to do it.”

COMPTROLLER FRANCHOT: Did she have a black eye?

GOVERNOR HOGAN: But the Maryland Commission on Judicial Disabilities, which is charged with overseeing the conduct of judges, and is the appropriate body, the Women’s Law Center took this complaint to them and they found that Judge Reese committed sanctionable conduct and ruled against her. So you’re asking for the State to pay for her legal fees before that Commission of the State, where she lost? Is that correct?

MR. ANDREWS: Yes but it went on --

TREASURER KOPP: And then what happened?

MR. ANDREWS: -- to the Court of Appeals, Governor, which --

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GOVERNOR HOGAN: So what was the ruling of the Court of Appeals? How did their decision differ from the lower --?

MR. ANDREWS: They found that what the Judge did was entirely proper and that these were absolutely groundless allegations. Judges, the rule says what a judge is supposed to do is hear the evidence, apply the law to the evidence that's presented, and make a decision. That's what she did. That's exactly what she did. And if you look at the rules, and these are the rules she was prosecuted under, it says that doing that is not sanctionable conduct.

Now you're right, Governor, the previous Commission pushed it through. But the Court of Appeals, which ultimately heard it, and you don't have to take my word for it, found that these allegations were utterly without merit and should not have been brought. And --

GOVERNOR HOGAN: So it was just the opinion of the Court of Appeals that the body responsible for overseeing the Judge was completely crazy and they had no merit whatsoever?

MR. ANDREWS: I wouldn't use the word crazy but the allegations had no merit. That's exactly what the, that's exactly what the Court of Appeals found.

GOVERNOR HOGAN: So they did not find a specific thing where they erred? They just said, no, we disagree with all of them --

MR. ANDREWS: The sanctions --

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GOVERNOR HOGAN: -- there's nothing to it?

MR. ANDREWS: They said that the sanctionable conduct doesn't get into --

GOVERNOR HOGAN: They just felt it wasn't sanctionable, is that correct?

MR. ANDREWS: I'm sorry?

GOVERNOR HOGAN: They just, they didn't necessarily disagree that the conduct didn't take place. They just said they didn't believe, they didn't agree with the decision to sanction her, is that correct?

MR. ANDREWS: They disagreed with the, because the Court said there's no legal basis to do what the Commission did. And so, again, this is a public servant --

TREASURER KOPP: Is that why the Commission has --

GOVERNOR HOGAN: Was it that --

TREASURER KOPP: -- the Commission process has been changed?

MR. ANDREWS: In part it has been --

GOVERNOR HOGAN: The Attorney General could not represent the Judge because the State was going after her?

MR. ANDREWS: Because of the State agency going after her, yes. And so if she had been sued --

GOVERNOR HOGAN: So, we're basically, you want us to pay both sides of, the prosecution and her defense?

MR. ANDREWS: Well it seems that when we have a public servant who has to pay substantial monies to defend herself for doing her job and the Court of Appeals said she did her job, this is not sanctionable conduct, that, yes, because again, if she had been sued the Attorney General's Office would have provided a defense. And --

GOVERNOR HOGAN: And the legal fees will be for both the lower court where she was found guilty and the upper court -- how does it break down?

MR. ANDREWS: These are the fees for the proceeding, the investigation, and the prosecution, if you will, by the Disabilities Commission and then up through the Court of Appeals.

GOVERNOR HOGAN: Do you have any idea how much, how it breaks down between the appeal and the original case that went against her?

MR. ANDREWS: I don't standing here. No, Governor, I don't. I don't. But it is, again, it is, she's doing her job. And the other thing I would say when this was appealed to the Circuit Court and the Women's Law Center was representing her and the Respondent showed up with counsel, the Circuit Court didn't issue the peace order either. She was just doing her job. And the message

that it sends to judges, it's easy to say, sure, well I'll just issue a peace order. But --

GOVERNOR HOGAN: Did you represent her before the Court of Appeals?

MR. ANDREWS: I didn't. My partner Andrew Graham did, yes.

GOVERNOR HOGAN: Did you not go to the Court of Appeals and ask for attorney's fees or --

MR. ANDREWS: The only mechanism --

GOVERNOR HOGAN: -- they didn't rule on that?

MR. ANDREWS: They did. The only mechanism for that --

GOVERNOR HOGAN: They did?

MR. ANDREWS: -- is on --

GOVERNOR HOGAN: Well if they did, why is it before us?

MR. ANDREWS: Well because there is -- let me back up. I want to be sure to answer your question, Governor. There was a request made to the Court of Appeals but it was under a rule that says the Court of Appeals would have to find bad faith. It's a very high standard. There are very few cases where fees are awarded under that rule. And so the Court of Appeals said, denied it.

We are here because this Board has before in the Judge Clyburn case, through an appropriation has reimbursed a judge for attorney's fees. And

this circumstance where she was found to be, her comments found to be utterly proper by the Court of Appeals --

GOVERNOR HOGAN: So the Court of Appeals ruled against you on paying her legal fees but you have the right to come before us to ask for it anyway?

MR. ANDREWS: Yes.

GOVERNOR HOGAN: Is that correct?

MR. ANDREWS: Yes, and the reason the Court of Appeals ruled against her, Governor, is because the standard is extremely, extremely high. And so this is --

GOVERNOR HOGAN: I'm not sure why we should have a different standard from the Court of Appeals. I trust their judgment.

MR. ANDREWS: Well I think it's a question of fairness and what public servants may expect, particularly a judge who is simply doing her job and finds herself at the end of this three-year process.

TREASURER KOPP: Could --

COMPTROLLER FRANCHOT: Yeah, well that's interesting. But I just come back to my original point. Wasn't this 17-year-old young woman standing before the Judge with a black eye?

MR. ANDREWS: But that's part of it. And she didn't say, I don't know where you got that black eye, that's one-half of what the burden of proof is.

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And that's, the Judge is a neutral arbiter. She's not the investigator. She's not the prosecutor. She's not the lawyer for the Petitioner. Remember, there's a Respondent there. He's got rights as well. So --

COMPTROLLER FRANCHOT: Well I appreciate that and, you know, obviously I have great respect for you and your partner who represent folks. I just think it's completely inappropriate, as I said, to use State tax dollars to pay for the legal expenses of Judge Reese, who got sanctioned by the Commission on Judicial Disabilities and then had that overturned by the Court, understanding that this is a two-step process. I just find it unbelievable that the defense is apparently they didn't explicitly prove that the person was going to come and punch her again.

MR. ANDREWS: That's what the statute --

COMPTROLLER FRANCHOT: What, in the other eye?

MR. ANDREWS: That's what the statute says. If the statute said anybody who wants a petition, anybody who wants a peace order just come on down, you can get one automatically, it would be a different, it would be a different situation.

GOVERNOR HOGAN: See, I don't want to argue the merits of the case and what she did or didn't do. I'm just stating the facts that we know. The Judicial Disabilities Commission ruled against her. The Court of Appeals ruled against you on legal fees. So now we have to make a determination but we

can't relitigate the entire case of whether we think she did something wrong or not. It's a question of whether or not we want to go beyond what the Court of Appeals did by granting you a special circumstance paying for these fees. And I tend to agree with the Comptroller. I mean, I'm going to vote no.

MR. ANDREWS: Well the Commission's ruling at this point is a nullity because the Court of Appeals, which has the ultimate authority, determined that the allegations were utterly, utterly without merit. And so you can leave a public servant to spend that amount of money, even at reduced hourly rates, to spend that amount of money after tax dollars, if I may Mr. Comptroller, of her own savings to defend herself in a proceeding that was determined to be absolutely without merit, the fairness of that, the message that sends to judges, and she was just doing her job, applying the statute the way it's written, not the way people might like it to be written, is beyond unfair.

TREASURER KOPP: Mr. Andrews?

MR. ANDREWS: Yes?

TREASURER KOPP: The, as I understand it, the Disabilities Commission found one thing.

MR. ANDREWS: Yes.

TREASURER KOPP: It was appealed to the Court of Special --

MR. ANDREWS: Court of Appeals.

TREASURER KOPP: -- Court of Appeals, and the Court of Appeals said that that was a mistake, that it was a wrong decision.

MR. ANDREWS: Yes.

TREASURER KOPP: Then the Judge appealed for reimbursement of expenses, essentially, in layman's language and the Court said no. Did they give a reason for saying no?

MR. ANDREWS: No. It was a, just a ruling denying the motion. And the thing to keep in mind, Madam Treasurer, is that the rule that allows for a Court to award attorney's fees is what's called sort of the bad faith rule. It's a very, very high standard, where the sorts of things that I'm talking to the Board about today, public servant, fairness, utterly meritless result finally, doesn't come into play. So there's just a limited, there's a limited avenue there that's, that was available. And as you pointed out, Madam Treasurer, as a result of this case and some others, the procedures, a lot of which were very unfair to Judge Reese, lack of discovery, ex parte communications with investigative counsel, those have been changed. So, this in a lot of ways is a one-off case but it really cries out --

TREASURER KOPP: And there is precedent for this Board in the past --

MR. ANDREWS: There is.

TREASURER KOPP: -- reimbursing, this was before even I was here --



MR. ANDREWS: Yes, it was Judge Clyburn.

TREASURER KOPP: -- Judge Clyburn.

MR. ANDREWS: It was 16 years ago. These cases don't come up very often. We believe this one for all the reasons I've said, and I appreciate the Board hearing me, merits the right message being sent to public servants like Judge Reese, who was just doing her job.

GOVERNOR HOGAN: Thank you.

COMPTROLLER FRANCHOT: So I would move to pull this item out and support the State Center legal fee allocation and not the --

TREASURER KOPP: Well it's, aren't these two different --

SECRETARY MCDONALD: Right. So --

GOVERNOR HOGAN: Totally different items.

COMPTROLLER FRANCHOT: Oh good. Great. Then I can just vote --

SECRETARY MCDONALD: Right. Item 17 is the one that Mr. Andrews was discussing.

GOVERNOR HOGAN: Just totally different --

COMPTROLLER FRANCHOT: Oh, great. So I can --

SECRETARY MCDONALD: Move for disapproval?

GOVERNOR HOGAN: -- second the motion to deny --

COMPTROLLER FRANCHOT: -- move that Item 17 be denied.

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GOVERNOR HOGAN: I'll second. All those in favor?

COMPTROLLER FRANCHOT: Aye.

GOVERNOR HOGAN: Okay. Opposed?

TREASURER KOPP: This is taking it out of what -- I can't, I can't agree with you. I do think there is an issue that the Judge should not, having defended herself, having been supported by the Court of Appeals, and the disciplinary commission recognizing their problems and having changed the procedures after this case, that she should be personally out of pocket almost \$90,000 doesn't seem to me right. I recognize what you're saying but it just doesn't seem right to me that a public servant like that should have to be out of pocket \$90,000 when her position in the end was upheld by the Court. So I can't go with that.

On the other hand, I do have a problem with 16.

SECRETARY MCDONALD: So can we vote on 17, though?

GOVERNOR HOGAN: So let's finish the vote --

TREASURER KOPP: I'm sorry. I just --

COMPTROLLER FRANCHOT: Yeah. I just want to add --

SECRETARY MCDONALD: Two to one. Two to one on 17?

GOVERNOR HOGAN: Yeah.

SECRETARY MCDONALD: Okay.

COMPTROLLER FRANCHOT: Yeah, but I also want to add, and I obviously respect the Treasurer. But I hear all the time of evidence, incidents of domestic abuse where the male spouse blames the female for causing and being the aggressor and I guess fomenting the violence somehow that he inflicts upon her. And that unfortunately is something I think our society needs to deal with much more aggressively. And so whatever changes were made in the process, I hope that the Women's Law Center and other advocates are monitoring all that very closely because proof positive that there's a, the second claim that's made is when you look at the young woman with a black eye. Really, to me. Because that inevitably is going to be repeated if there is any contact between those two people. So, you know, I am very comfortable saying that it's entirely appropriate in this instance to have the Judge pay her own legal fees. And I feel very strongly about that just because of the imbalance in power that exists out there.

TREASURER KOPP: Could I just say, I didn't think I had to say this, but I am opposed to domestic violence. And I recognize the inequities that women face. Trust me. I do. But I think we have to look not only at general concerns and problems but in a specific case with specific people and a specific set of circumstances. And that's what causes me to say in this instance it is not clear to me that the Judge should have to pay \$90,000 when even the Court of Appeals said she was essentially following the law and doing her duty.

On the other hand, with 16 I think it's quite clear, Governor, you had concerns with what the Legislature did in the budget --

GOVERNOR HOGAN: Can we, can we finish --

TREASURER KOPP: I thought we voted.

SECRETARY MCDONALD: -- Item 17 has been disapproved two to one.

GOVERNOR HOGAN: Two to one on Item 17 --

SECRETARY MCDONALD: We've got that. Now we've got the rest of the Agenda but you want to talk about 16.

GOVERNOR HOGAN: Now we're going to go back to the rest of the Agenda --

TREASURER KOPP: I was simply explaining that I had a social conscience.

GOVERNOR HOGAN: -- I think everybody understands.

TREASURER KOPP: But on 16, there was an issue earlier today about the use of the budget power and the Department of Education, as I recall.

GOVERNOR HOGAN: Yeah.

TREASURER KOPP: In this one it's quite clear, the Legislature was properly exerting its efforts to carry out its responsibilities in voting against this expenditure, both in a 2019 deficiency and 2020. And I don't think this

Board should be attempting to overturn that action by the Legislature. So I think it's probably going to be two to one --

GOVERNOR HOGAN: It's not quite that clear. This was a decision, a unanimous decision by the Board of Public Works several years ago to vote against the capital leases --

TREASURER KOPP: It was. And I regret that to this day.

GOVERNOR HOGAN: -- so we, this deal was dead. We have this failed developer that has not done anything with this site for 14 years. We're involved in a lawsuit. These expenses for legal fees were incurred from December of 2018 through February of 2019. After the fact, the Legislature inappropriately came back and tried to push a budget cut that would say, keep us from paying our responsibilities in the executive branch for expenses that already occurred, and attempted to unconstitutionally exert power they don't have to require another three to nothing vote of the Board of Public Works. Which the Attorney General has already ruled that they have no power to make that kind of a decision. So --

TREASURER KOPP: Governor, can I just say that --

GOVERNOR HOGAN: -- let me just say --

TREASURER KOPP: -- there are other funds than the contingency fund.

GOVERNOR HOGAN: There are – actually, since they deleted these monies out of the budget for money that we needed to spend to pay our lawyer's fees, the only money remaining to pay our bills is out of this contingency fee, which there's \$500,000 and most of this money. That's what the contingency fee is for, so we can pay our bills in a case like this where the Legislature does something stupid and takes away the money that we needed to pay the bills with.

So I think that if you want to make a motion to pull that one out, I think --

TREASURER KOPP: Sure. I'd like to move to pull that one out.

GOVERNOR HOGAN: And if there's a second? The motion fails to have a second. So --

SECRETARY MCDONALD: But she's going to be voting against this item.

TREASURER KOPP: I'm going to --

SECRETARY MCDONALD: This is a --

GOVERNOR HOGAN: Yeah. I mean, we can pull it out. I'll second the --

TREASURER KOPP: Right.

GOVERNOR HOGAN: -- her motion to pull it out and then we can vote on that item separately.

SECRETARY MCDONALD: Right.

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GOVERNOR HOGAN: I'm going to vote --

SECRETARY MCDONALD: So two to one.

GOVERNOR HOGAN: -- in favor of the motion. And --

COMPTROLLER FRANCHOT: The motion is to --

SECRETARY MCDONALD: To approve State Center --

COMPTROLLER FRANCHOT: Yes, I'm --

GOVERNOR HOGAN: The motion carries two to one.

TREASURER KOPP: That's right.

SECRETARY MCDONALD: Thank you. We are good on 16 and  
17 now.

COMPTROLLER FRANCHOT: I will say the best way to deal with this issue that we're dancing around, and it comes beforehand, and it's come up in multiple, multiple instances, I would love to see a videotape of these conference committee votes where this language items fall out of the ceiling, I guess. Nobody takes credit for anything. I am probably never going to find the person that put the Towson language in. But I wish that in the future we would film the meetings in the back room where these little actions are taken so that at least we know from whence they come.

GOVERNOR HOGAN: Yeah, but on this last item, just I don't want to get into a he said, she said, but just the Legislature in trying to stop us from paying our legal bills to defend the State in this action potentially could cost

taxpayers up to \$100 million in lawsuits. So, it's just, it's total lack of regard for fiscal responsibility in my opinion, and an interference, and they don't have the power to do it.

TREASURER KOPP: Governor, can I just point out to the Comptroller that all these were approved on the floor in recorded vote. Who sponsors a bill or an amendment, who is not the question.

GOVERNOR HOGAN: I think his question is where it came from, you know, who influenced them to come up with an idea like that. Are there any other questions on the DBM Agenda? Is there a motion?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Second? Three-nothing on the remainder of the Agenda. Now we're going to move on to the University System.

MR. EVANS: Good morning. Joe Evans, representing the University System of Maryland. We have eight items on the Agenda. We're here to answer any questions.

GOVERNOR HOGAN: Joe, we might give you a break while we clear the room. They are making a lot of noise back there and we want to make sure we can pay attention to you.

TREASURER KOPP: Don't take it personally. It's not that they don't love you.



GOVERNOR HOGAN: They're not walking out on you. It's just that we just cleared a whole lot of things off the Agenda. It's not a protest of the University System or you personally.

MR. EVANS: It usually happens when DBM --

GOVERNOR HOGAN: Every time you come up it seems like people walk out.

(Laughter.)

GOVERNOR HOGAN: We should probably reorder the thing so Joe doesn't always get walked out on. All right. Thank you.

MR. EVANS: Again, Joe Evans representing the University System of Maryland. We have eight items on the Agenda. We're here to answer any questions.

GOVERNOR HOGAN: Any questions on the University System Agenda?

COMPTROLLER FRANCHOT: I just wanted to ask an item about one of my favorite universities, Salisbury University. I call it the Yale University of Maryland because it's such an outstanding institution. But there's an item on the -- I don't quite know what item it is. Is it 1-C?

MR. EVANS: 1-C.

GOVERNOR HOGAN: The DNR Secretary just gave a little shout out because she's a --

COMPTROLLER FRANCHOT: Yeah.

GOVERNOR HOGAN: -- graduate of the Yale University of Maryland.

(Laughter.)

COMPTROLLER FRANCHOT: Good. So the item is a very important item for not just the University but also Downtown Salisbury. And I understand that it's a single bid proposal you're putting before us, and could you just explain how that happened.

MR. EVANS: I'd like to bring up Bill Olen, who is the Executive Director for Design and Construction at University of Maryland College Park.

COMPTROLLER FRANCHOT: Great.

GOVERNOR HOGAN: Thank you.

MR. OLEN: Good morning, Governor --

GOVERNOR HOGAN: Good morning.

MR. OLEN: -- Comptroller, Treasurer. Bill Olen, Executive Director of College Park Service Center. Comptroller, to your question, we advertised the project, we requested technical proposals from qualified firms. We received them. And then after further review by the three firms before they were asked to give us a price, two of the firms decided not to participate in the price component of the project.

COMPTROLLER FRANCHOT: So that's why we have a single bid contract. Okay. So --

MR. OLEN: We got three technical proposals, just to be clear.

COMPTROLLER FRANCHOT: Right. But you have the wrong concept, with all due respect. I have been a huge advocate for design-bid-build, which would have been a perfect model for saving the State money and getting multiple competitive bids for this project. And instead you all decided to do a design-build for a relatively small, internal renovation of a building project. And let me just state for the record that design-build model that you used is completely inappropriate for that size project and particularly for one that's done internally. And the reason that you lost, I think, these other two companies is that you didn't spend an extra week doing the kind of design that would have allowed under design-bid-build multiple contractors and multiple competitors to find out exactly what it would cost from their subcontractors. And as a result, you know, we're faced, I'm obviously going to vote for this proposal, but the idea that this is what I've been talking about is ludicrous. This is exactly the opposite. And at least to the State taxpayers, spending unnecessary money through Salisbury University for this project and it directly results in only one bid. So, you guys get a grade of F for failure as far as the procurement and please would you communicate to the System membership that I'm interested in design-bid-build wherever possible.

MR. OLEN: Yes, sir. We do quite a bit of design-bid-build. We also use other tools in the toolbox, CM at risk and design-build. Because of this, we are finding right now because of what's happening in the market there isn't enough trade folks to go around. One of the advantages of design-build -- it didn't show in this one, I have to admit, it didn't show in this one, is there's not enough folks out there to work on our projects. And projects that are risky, you know, we're having issues with that. So we do all the different types of implementation. This may have been one that just didn't work out the way we wanted. Yes, sir. It didn't.

COMPTROLLER FRANCHOT: Yeah. My understanding is according to your documents the other two declined to submit a price due to the risk in providing a lump sum price for design and construction.

MR. OLEN: Correct.

COMPTROLLER FRANCHOT: And then market conditions, as you indicate, that where there are opportunities elsewhere available. All I'm suggesting is, please, take it. All you needed to do is take an extra five working days, very simple for an architect to complete the design so that other contractors could actually bid a reasonable price. And my opinion, and I could be completely wrong but I think I'm right, is that the State will profit, will benefit, by 15 to 20 percent cost savings and we will also benefit because there will be multiple bids. So thank you for letting me get down in the weeds on this. But please, design-

bid-build, wherever possible. Am I right, Nelson, that that's the process you all use which is --

MR. REICHART: General Services always uses design-bid-build.

COMPTROLLER FRANCHOT: Thank you.

GOVERNOR HOGAN: It wasn't fair teaming up with Nelson like that.

COMPTROLLER FRANCHOT: Yeah.

(Laughter.)

GOVERNOR HOGAN: Thank you, Bill. Any other questions on the University System? Is there a --

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Second?

TREASURER KOPP: Second.

GOVERNOR HOGAN: Three-nothing on University System. Next move on to Department of Information Technology.

MR. LEAHY: Good morning, Governor, Madam Treasurer, Mr. Comptroller. For the record, I'm Mike Leahy, Secretary of the Department of Information Technology. Today we have nine items on your Agenda. One is supplemental, and there are agency representatives here to answer any questions.

GOVERNOR HOGAN: Questions on DoIT?

COMPTROLLER FRANCHOT: Move approval.

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GOVERNOR HOGAN: Second? Three-nothing. We're going to move on to the Department of Transportation Agenda.

TREASURER KOPP: Despite all the sole source.

MR. RAHN: Good morning, Governor, Madam Treasurer, Mr. Comptroller. For the record, my name is Pete Rahn, Secretary of the Maryland Department of Transportation. MDOT has 21 items before you today. The Item 22 is a supplemental to the Agenda. And at this time we are withdrawing Item 9-RP. And I would add that any problems we have are clearly the fault of Mr. Newgent.

(Laughter.)

GOVERNOR HOGAN: Clearly the fault of what? I missed that.

COMPTROLLER FRANCHOT: Mr. Newgent.

GOVERNOR HOGAN: Oh, it's Newgent's fault. Yeah. Good idea.

(Laughter.)

GOVERNOR HOGAN: It's going to take him a while to get up to speed. We understand.

TREASURER KOPP: I have a question with Item 1, the EZ Pass.

MR. RAHN: Yes?

TREASURER KOPP: And a couple of others. It seems as though we have a problem making sure that all of our spending is in synch with the

specific item that the Board sees and approves. And that's in general, and it seems to be more in MDOT than other places. In this one, with you've got both retroactive and then you're piling on more money, in part I suppose to make up for people like me getting a free transponder. So it turns out there's nothing that's free. It's just being paid for differently. But what about the rest of the story?

GOVERNOR HOGAN: Can I answer that one before you jump in?

TREASURER KOPP: Yes.

MR. RAHN: Yes.

GOVERNOR HOGAN: This is a tremendous success story for the State.

TREASURER KOPP: Oh, I just used it --

GOVERNOR HOGAN: We, not only did we eliminate the monthly fees of \$1.50 a month on the EZ Pass, but then we eliminated the up-front expense of the EZ Pass to try to encourage more usage of it because it saves the State money and the cashless tolls is the eventual goal. And the burgeoning demand has been incredible and far more than anybody could have possibly anticipated. And the demand for transponders doubled in the first four months after I announced the change in our policy. And so therefore, we have to, the contract, the existing contracts could not handle all of the huge demand for Marylanders that are dying to get their EZ Passes. But I'll let the experts tell you. That was just my fluff part of the answer.

COMPTROLLER FRANCHOT: Yeah, very impressive.

GOVERNOR HOGAN: But we're really proud of it. I mean, that's one of the things people --

TREASURER KOPP: No, I just drove up and back to Connecticut using EZ Pass and it was terrific.

GOVERNOR HOGAN: Well. With your --

TREASURER KOPP: No question about it.

GOVERNOR HOGAN: -- we should have you do a testimonial.

TREASURER KOPP: It is. It's wonderful. It's a great system.

MR. O'NEILL: Good morning, Mr. Governor, Mr. Comptroller, Madam Treasurer. I'm John O'Neill. I'm the Acting Executive Director for the Maryland Transportation Authority. And this retroactive item is to cover the transponders. As the Governor stated, we had estimates of how many transponders we were going to be selling. And the price of those transponders per our vendor in 2016 came down. So we came in 2016, lowered the amount of the contract by \$2 million. Then we rolled out the free transponder program. Which instead of 21,000 transponders in that same time frame, we sold 173,000 transponders.

GOVERNOR HOGAN: Wow.

MR. O'NEILL: So and we --

GOVERNOR HOGAN: I said doubled. That's like --

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(Laughter.)

MR. O'NEILL: So a very successful program. We have over 1.2 million active accounts and each of those accounts has multiple transponders.

Also, during this time period when we --

GOVERNOR HOGAN: The other thing by the way we did --

MR. O'NEILL: Sorry.

GOVERNOR HOGAN: -- besides eliminating the monthly fee and the up-front fee was cutting the tolls for everybody that's using them --

MR. O'NEILL: That is --

GOVERNOR HOGAN: -- at every facility in the State. So people, it would encourage people to say, well, we'd better go get an EZ Pass.

MR. O'NEILL: That is correct. And with the Governor's press release that day, we actually saw quite a, at least a ten percent increase in individuals coming in, signing up for EZ Pass. And as we moved more and more individuals to EZ pass, because we're giving them a 25 percent discount over the cash rate. And in some cases, such as the Bay Bridge, a 37.5 percent incentive to use EZ Pass as opposed to cash, as well as reducing the emissions, near roadway emissions, reducing crashes by 70 percent at our plazas, at our toll plazas, and reducing congestion. Because when you need to stop to pay a toll and accelerate, it slows traffic down and also results in more collisions.

Another part of this story, there is one part of this story that we have to admit to at the Transportation Authority. We were in the middle of upgrading our Maximo inventory management system at the time that we rolled out the free transponder program. And there was a delay in the accounting for the increase in sales in the inventory system. So that resulted in a lag where we were in the contract and we continued to sell them, which is a great story. Because 173,000 additional accounts, after that announcement, within a year that was our most successful year ever on getting people signed up for EZ Pass. So with that small system upgrade, there was a little delay and that was a human issue.

TREASURER KOPP: So, what are you doing to change the system, so you don't have that problem --

MR. O'NEILL: The system has been upgraded. It was in the, it was actually in the middle of the migration when the free transponder program rolled out. And that caused some delay because there was a manual process. Now the system is in production and working as it should. It was just the timing of it was during the migration. It was just the timing of the system and the paper process took longer than the electronic process.

TREASURER KOPP: So actually you're saying that your statement to us here that it was due to human error and staff changes managing your systems, and you weren't aware of it, is not so?

MR. O'NEILL: Well the staff changes, there were staff changes, as well as the system change. And that's where --

TREASURER KOPP: I understand staff changes.

MR. O'NEILL: Okay.

TREASURER KOPP: I understand glitches. What I want to understand is what you've changed so that -- everyone has staff changes all the time and it's a real problem. And I get that. But you still have to be on top of it.

MR. O'NEILL: Understood. And the staff changes are part of the story. The rest of the story -- sorry.

MR. RAHN: I'm sorry. So John, explain Maximo --

MR. O'NEILL: Okay.

MR. RAHN: -- so that it's clear that it's the inventorying system and with the migration to the new inventory system, it was within the period --

TREASURER KOPP: Okay.

MR. RAHN: -- that we missed it --

TREASURER KOPP: I'm only reading what you told us and trying to understand.

MR. O'NEILL: I understand. And I think there was probably more that should have been in that explanation. During that inventory system upgrade we also had some staff changes and people who were very aware of how they managed these inventory systems. And so during the migration the system

should have told people that we were using more of these at a faster pace. The individuals that were the staffers that would have known this had moved on. So, trying to, so it was two issues. One was the system that would have caught it otherwise. But also at the same time you had some staffing changes that also resulted in the individual that would have known this information without the system, without looking in the system, you understand there's a lot of people with the institutional knowledge that just know everything that's going on without having to refer to the system. The system wasn't there for the new people to refer to until later because it was being upgraded, and the individual that had all the institutional knowledge was gone. So that was, it was a unique period --

TREASURER KOPP: I get that.

MR. O'NEILL: -- and a series of unfortunate events right there during the, during our ramp up for the free transponders.

TREASURER KOPP: Thank you. I appreciate that. And knowing that there are going to be these changes in the future --

MR. O'NEILL: Yes.

TREASURER KOPP: -- since there are generational changes going on in all our agencies, you have made also, or you were on top of making changes to make sure that that sort of information is captured before people leave and --

MR. O'NEILL: Yes. It's having more than one individual. Because unfortunately a lot of times you end up with a single point of failure. And we've come to rely on individuals --

TREASURER KOPP: Yes.

MR. O'NEILL: -- at all agencies, on one person, hey, they've been there 20 years, they know what's going on. Well, we're working with succession planning to make sure that there's multiple individuals that know that information and the next time we have a major initiative such as this, we will delay our system upgrade --

TREASURER KOPP: That's what I wanted to hear.

MR. O'NEILL: -- or make sure that's completed first.

GOVERNOR HOGAN: Great. Thank you.

MR. O'NEILL: Thank you.

GOVERNOR HOGAN: Any other questions?

COMPTROLLER FRANCHOT: Yes. Item 6, please. I'm not sure if Administrator Quinn is here. So this is a \$1.6 million retroactive approval sought for a contract with New Flyer Industries for the 140 40-foot diesel buses. This was an \$81.4 million contract we approved in 2017. According to the background materials an employee of MTA went up to Canada to the vendor's facility and agreed to move forward with \$1.6 million worth of upgrades, thereby

bypassing the proper procurement process. And I'm just wondering what the administrator has as a comment, if any, on this employee's actions.

MR. QUINN: Sure. Well, good morning.

COMPTROLLER FRANCHOT: Yeah.

MR. QUINN: Madam Treasurer, Mr. Comptroller, Mr. Governor, thank you for having me. So first and foremost, I just want to put out there that MDOT MTA, myself, the agency completely understands that we do not have the authority to modify contracts. That is an authority that rests solely with the Board of Public Works. I also want to convey that personally I am absolutely committed to ensuring that MTA adheres to State procurement guidelines. And this is a point that I make to my staff regularly in executive staff meetings, individual meetings, something that I stress tremendously.

So since this error occurred, we've focused a lot on training. And so, MTA is offering, we've put together a professional contract management training. Also the Secretary's office has created an Office of Project Quality Assurance that's been tremendously helpful. It's overseeing a 40-hour professional contract management training class. So we have 12 MTA participants. Seven have completed that to date. So we're really committed to getting our folks trained up on this.

With regard to this specific item, you're right. This was approved in June 2017 for the purchase of buses and during the pre-production meeting

with the vendor an employee approved several items that were out of scope. And while these upgrades were safety and they were very customer service focused, they were outside of the scope of the contract and they were not approved by the Board of Public Works prior to that modification. I will just note that that MTA employee is no longer employed by the agency and the seriousness of this error has certainly been conveyed to all staff.

So lastly, just as a, and you're asking for my comment, I agree with you. It's inexcusable and I will continue to demand that the agency follow all proper procurement laws.

GOVERNOR HOGAN: Kevin, let me ask you this.

MR. QUINN: Sure.

GOVERNOR HOGAN: I'm --

COMPTROLLER FRANCHOT: No, please.

GOVERNOR HOGAN: -- I think it's great that you, you know, owned up and accept the responsibility, and that you've taken, been very proactive and are training people so that they don't make a mistake like this. But aren't there some, shouldn't we have some checks and balances so that some random employee should not be able to just arbitrarily spend the State's money when they don't have the authority to do so? I mean, how do we stop that from happening in the future? You know, rather than just making sure they are trained well --

MR. QUINN: Yeah.

GOVERNOR HOGAN: -- even if somebody is very well trained, they should never be able to commit us to spending money when they don't have the authority to do so.

MR. QUINN: Yeah. So I think, you know, part of it is putting in place that checks and balances, being sure that that approval has to go up a couple levels before that's done. And I think training is a key piece of this. This isn't something that we really had at the agency before. And so, you know, my thinking about it is, you know, when we have new employees come on board that we know are going to be overseeing contracts, they've got to undergo this training. This can't just be an every year, and then someone joins, and 12 months later than they get the training. No. They need it right when they come in the front door.

MR. RAHN: Kevin, would you have Mike explain the checks and balances --

MR. QUINN: Sure.

MR. RAHN: -- that we are putting in place? And I would also add that this occurred prior to my action as Secretary taking the procurement from MTA and moving it to the Secretary's office for oversight. And so since that has occurred, a lot of changes have been made in the procurement process. And of course, Mike Zimmerman has been leading an overhaul here, and I have to say



that Kevin Quinn has been very diligent in chasing down these issues when they occur. This should not have happened and we, I believe, have taken a number of steps so that things like this are far less likely.

GOVERNOR HOGAN: And in the future we can always blame it on Mark Newgent --

MR. RAHN: Exactly. Exactly.

(Laughter.)

MR. ZIMMERMAN: Good morning, Governor, Madam Treasurer, Mr. Comptroller. Mike Zimmerman, Chief Procurement Officer for the Maryland Department of Transportation. As Secretary Rahn had mentioned and Administrator Quinn, we have taken a number of steps to try to educate and train the MDOT employees in contract management initiatives. We have developed a 40-hour boot camp under the new Office of Project Quality Assurance that Secretary Rahn has created. That boot camp is based on a body of knowledge from professional contract management organizations such as the International Association of Contract and Commercial Management, the National Contract Management Association, the American Society for Quality, and the Institute for Supply Management. So we have taken a body of knowledge from the industry and created a MDOT specific training boot camp. It's 40 hours. We are opening it up to the entire MDOT business units. We've had, we're on our third class right now this week. We have a class scheduled every month for the next eight

months. It is an ongoing initiative that will likely be at least one class a month forever. And we are working with some of the TBUs to actually have TBU specific classes outside of the monthly class to try to get the bulk of the MDOT trained in a timely fashion.

COMPTROLLER FRANCHOT: I just want to thank, is it Mr. --

MR. ZIMMERMAN: Zimmerman.

COMPTROLLER FRANCHOT: -- Zimmerman, yeah, and the Administrator and the Secretary. I think it's a night and day difference. And MTA historically has had a lot of problems with procurement and I'm very pleased to hear this because I think it's, it will live on long after we're gone. I'd also like to thank that you agree with me.

(Laughter.)

TREASURER KOPP: Is there any, are there any aspects of your -- we have been talking for a long time about a procurement academy for all of the agencies. And I hope someday we'll see it. But is there any component of what you're doing that would be useful to other agencies?

MR. ZIMMERMAN: Thank you for asking.

(Laughter.)

MR. ZIMMERMAN: As a matter of fact, Secretary Rahn has --

TREASURER KOPP: Did he set you up for that question?

(Laughter.)

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MR. ZIMMERMAN: Secretary Rahn has created the MDOT University. And within MDOT University the contract management training will be a portion of MDOT University. But we're into our third year now of our Procurement University, where MDOT actually brings in MDOT employees for a period of six months and they shadow our procurement officers. We have a, every Monday morning on site training with one of the procurement directors and then they go back to one of the TBUs and they work with a procurement officer for a week. And for the entire, the rest of the week. It's a six-month program that they go through and it's sort of in an attempt to help breed some new procurement officers for the State. We're working very closely with Bob Gleason and Mike Haifley in an attempt to help them maybe develop something for the State that's similar.

TREASURER KOPP: That would be, and Dana I'm sure would agree, that would be tremendously useful. And there are a number of small agencies also which don't have big procurement staffs themselves.

MR. ZIMMERMAN: We actually, I'm sorry, excuse me, we actually have a couple of DoIT procurement officers in our MDOT U right now, that we let them come in and sit through it.

TREASURER KOPP: That's very good news.

MR. RAHN: It can, Madam Treasurer, yes, this can be replicated, I think, by other departments. And we're happy to turn this into a profit center for MDOT.

(Laughter.)

GOVERNOR HOGAN: I don't think we're going to do that.

TREASURER KOPP: But if it does right, it's good for the bottom line.

GOVERNOR HOGAN: We're just going to share best practices.

TREASURER KOPP: That's terrific.

GOVERNOR HOGAN: Yeah, thank you very much. I appreciate it.

TREASURER KOPP: Thank you.

COMPTROLLER FRANCHOT: Move approval.

TREASURER KOPP: As long as Kevin is there, can I ask a question about 10-M, the local transit buses?

MR. QUINN: Sure.

TREASURER KOPP: And it's the same question I asked earlier, only now we're talking about transit. What are we doing when we make procurements like this to achieve our emissions mandates?

MR. QUINN: So, this contract, or this item in particular, is for the purchase of medium duty buses for our locally operated transit systems.

TREASURER KOPP: Right.

MR. QUINN: The MTA, MDOT MTA serves as sort of a conduit for, you know, purchasing these vehicles for the locally operated transit systems. The local systems, you know, we do this on behalf of them. And so if they make the request to us for a large procurement for electric buses for them and --

TREASURER KOPP: You'll do it.

MR. QUINN: -- then we can do that.

TREASURER KOPP: But what are we doing --

MR. QUINN: So, so, and just to kind of add a couple of pieces to this of kind of what's going on nationwide right now with electrification. So one is there's a recognition that fleet sizes will likely need to change. So right now, MTA for example, we've got 750 buses in our bus fleet. And when you take a look at how long you can run electric buses, for example, we run buses right now for 16 to 20 hours a day. Many electric buses on the market right now don't run for that long. So there's a, and so as a result of that and the need to pull buses off the road, charge them, you may need to actually dramatically increase your fleet size to accommodate those buses.

A second piece is the infrastructure. So just talking MDOT MTA, we have four big bus divisions that would need electric charging stations. And so with the locally operated transit systems around the State, there's the infrastructure that's needed. Not just the buses but a tremendous amount of

infrastructure. And something that states like California are talking a lot about and struggling with is redundancy. So for example, let's say there's a security event or something very bad happens and the electric power grid goes down and right now our buses, for example, I know, are in many of our hazard plans as ways to get people out of major cities, out of Baltimore, for example, or out of California. Those buses need to be running and those buses need to have power going to them and need to be charged. And so, it's not just the infrastructure. It's the redundancy of that infrastructure that needs to be put in as well. So while I get your point, and I totally understand and the need to drive this, there's these associated infrastructure costs that are tremendously important that have to be considered as well. Long story short, if the locally operated transit systems would like to come to us with a request for a larger, for an electric bus buy, we're open to having that conversation.

TREASURER KOPP: Well, I'm sure you are. But the question is, what are we doing? Where's the leadership?

MR. RAHN: Madam Secretary, you know, we are very active in the TCI activity that's going on right now. I know you're familiar with that.

TREASURER KOPP: Yes.

MR. RAHN: We are very active in this and the Governor has given us direction that we are to endorse and support whatever we can there. And I

believe Secretary Grumbles would state as well that we are taking a leadership role within the Northeast in this approach.

TREASURER KOPP: We are.

MR. RAHN: So it might not be visible, but we are and we are investing in utilizing these funds from Volkswagen to put the infrastructure out there. Because it's a little chicken and egg. We're not going to have one until we have the other. And we're not, you know, and the idea of not having infrastructure until we have enough cars and vehicles to utilize it, we're pushing forward with that infrastructure.

TREASURER KOPP: Well maybe, maybe you're the, I mean, this is something the State has to do with our fleets, with local fleets. We've got to own this program. And it goes way beyond what we're talking about here. Obviously it goes to the infrastructure. It goes to planning and zoning. You know, it goes to this question of roads versus transit. But we have to, someone has to be invested with the leadership. And it's not just saying, well, if the locals ask me, we'll do it. Or if, I'll give the agencies a list of things that they can choose from and low emissions might be among them. That's not --

MR. RAHN: Well --

GOVERNOR HOGAN: I know we're really leading the nation on these types of issues and I certainly welcome your help in getting the Legislature on board. I mean in the last legislative session --

TREASURER KOPP: Well the Legislature passed a bill but I don't understand how it's going to work.

GOVERNOR HOGAN: In the last legislative session we put more money in for electric vehicle tax credits and charging stations, which they cut in half. And we did get something passed but we've already used up for this year all of the electric vehicle tax credits that they allocated. And you talk about this infrastructure, they did not support us on the funding for putting more money into it. So we'd love to have your help.

MR. RAHN: I don't mean to be pandering, but I have to say we do have leadership on this issue and it's the Governor. The Governor has --

TREASURER KOPP: You can pander. I mean, we can do whatever as long as we do it. I mean, we do have goals --

GOVERNOR HOGAN: Next session let's work together on getting your colleagues --

TREASURER KOPP: Yeah.

GOVERNOR HOGAN: -- your former colleagues on board.

TREASURER KOPP: Well they are on board. They passed the deadline. Now the question is how you --

GOVERNOR HOGAN: But they voted against the important legislation, they cut it in half. But thank you very much.

COMPTROLLER FRANCHOT: Move approval.

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GOVERNOR HOGAN: Is there a second on --

COMPTROLLER FRANCHOT: Yes.

GOVERNOR HOGAN: -- Transportation? Three-nothing. Last but not least we have Department of General Services.

MR. REICHART: Good morning, Governor, Madam Treasurer, Mr. Comptroller. For the record, I'm Nelson Reichart, Deputy Secretary of General Services. The department has 30 items on our Agenda, including two supplementals. We are withdrawing Items 15-CGL and 26-CGL. I'll be glad to answer any questions you have at this time.

GOVERNOR HOGAN: Questions on DGS? Is there a motion?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Second? Three-nothing. We are adjourned. Thank you.

(Whereupon, at 11:55 a.m., the meeting was concluded.)